

III. REMARKS

Status of the Claims

Claim 2,4,6,7, and 9 are amended. Claims 1-7, 9-13, 31, and 32 are presented for further consideration.

Applicant submits that the objection to claim 9 is fully met by the above amendment. Further amendments are made as indicated to remove reference numerals. It is submitted that these amendments are properly submitted under 37USC1.116 and accordingly, Examiner is requested to enter these amendments.

The Office Action and Responsive Remarks

Claims 1-13, 9-13 and 31-32 stand rejected under 35USC103(a) on the basis of the cited reference Piosenka, U.S. Patent No. 5,926,756 in view of the cited reference Wong et al, U.S. Patent No. 5,881,103. The Examiner is respectfully requested to reconsider her rejection in view of the above amendments and the following remarks.

This rejection is traversed on the following grounds:

The combined teaching of Piosenka and Wong does not render claims 1-13, 9-13 and 31-32 obvious because it fails to teach or otherwise suggest each and every limitation of the claims. It is well settled that in order to establish a *prima facie* case for obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, without reference to the disclosure of this application. (MPEP Section 2142) *In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP § 2143 - § 2143.03 for decisions pertinent to each of these criteria.*"

In particular the combined teaching fails to disclose or suggest the claimed features of independent claims 1, as follows:

"an auxiliary device connection for connecting an auxiliary device having audio parameters relating to audio properties of the auxiliary device with the mobile communication device;

a microcontroller in said auxiliary device; and

wherein the mobile communication device further comprises communication interface for communicating with said microcontroller for loading the audio parameters from the auxiliary device into the memory for using said at least some of the audio parameters during operation of the mobile communication device when the auxiliary device is connected to the mobile communication device, said communicating being configured to be conducted by two way communication of digital data between said microcontroller of the auxiliary device and said mobile communication device."

Equivalent language is contained in independent claims 5, 31 and 32.

The system of Piosenka comprises a PC, an interface unit, and a cellular phone. The interface unit may be included in the cellular phone or it may be an external device. As previously stated, the PC is used to program the cellular phone through the interface unit for use of the cellular phone independently of the PC. The programming may include setting volume controls or ring tones, for example. The PC is connected to the interface when the programming should be performed but not when the cellular phone will be operated for other purposes than programming. Even if PC was a PDA as the Examiner asserts, the situation would not change. Still the volume control or ring tone are not related to the audio properties of the PC or the interface unit. The PC is only used for sending those parameters to the cellular phone. Further, the cellular phone of Piosenka et al. does not use the volume control or ring tones when connected to the PC. The Examiner still seems to maintain that the PC or PDA is analogous to the auxiliary device of the claims. This analogy fails for the reasons stated above and further, in col. 1, lines 8—13 of Piosenka et al, it is stated:

"Advances in technology have resulted in cellular telephones with an ever increasing range of programmable features. Such programmable features include, for example, programmable personal directories, timers, tone controls, volume controls, ..." (emphasis added)

It is clear from the above that the volume control is a feature of the cellular phone, not the feature of the PC or the interface unit. The same applies to the ring tones. Although the parameters may be input by the user by using keyboard of the PC or the parameters may have been stored on the PC for downloading to the cellular phone, the parameters are not related to the audio properties of the PC, (the auxiliary device according to the Examiner's analogy). The user need know nothing about the audio properties of the PC to program the cellular phone. Further, Piosenka et al. is totally silent on audio properties of the PC. The reference Piosenka there fails to disclose or suggest the above features of the independent claims.

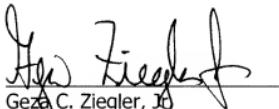
In the system of Wong et al. audio parameters are stored in a memory of an auxiliary device. When the auxiliary device is connected to a cellular phone the parameters are read from the memory to the cellular phone. The processor of the cellular phone adjusts filter parameters on the basis of parameters of the auxiliary device. The communication is not two-way communication by means of operating the microcontroller in said auxiliary device. The reference Wong, therefore, fails to disclose or suggest an auxiliary device having the features described in the claims.

These grounds apply equally to the rejected dependent claims, all of which, by dependency, have the limitations described in the independent claims. The cited reference Wong fails to remedy the deficiencies of the primary reference Piosenka.

For all of the above reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,


Geza C. Ziegler, Jr.
Reg. No. 44,004

13 Feb 2007

Date

Perman & Green, LLP
425 Post Road
Fairfield, CT 06824
(203) 259-1800

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this correspondence is being transmitted electronically, on the date indicated below, addressed to the Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: 13 February 2007

Signature: 
Lisa Shimizu
Person Making Deposit